



May 18, 2000

Ms. Elaine S. Hengen  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

OR2000-1982

Dear Ms. Hengen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135334.

The City of El Paso Police Department (the "city") received a request for the full report of a case involving an assault. You submit case report number 00-022017 as responsive to the request and you state that the city has released redacted copies of the incident report, the complaint affidavits and a supplemental report. You have submitted for our review a complaint report and several supplemental reports (the "reports"). You claim the city may withhold the reports from disclosure under section 552.108 of the Government Code because they relate to the pending criminal investigation and potential prosecution of the case. In addition, you seek to withhold specific information ordinarily found on the first page of the reports.

Section 552.108(a)(1) of the Government Code, excepts from required public disclosure:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

After reviewing your arguments and the information you submitted for our review, we conclude that you have met your burden of establishing that the release of the reports at this time could interfere with the investigation and prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

However, section 552.108 is inapplicable to basic front page information about this incident. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App. --Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Nonetheless, you argue against release of some specific information ordinarily found on the front page of the complaint report. This office has held that other specific information ordinarily found on the first page of an offense report may also be withheld under section 552.108 when the governmental body demonstrates that the release of that specific information would interfere with law enforcement. Open Records Decision No. 508 (1988) (construing statutory predecessor). We believe you have met your burden of demonstrating that release of the specific information would also interfere with the pending investigation and prosecution of crime. Thus, with the exception of the remainder of the basic front page information, you may withhold the reports from disclosure based on section 552.108(a)(1).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

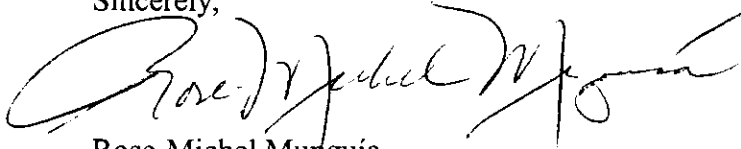
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Rose-Michel Munguia", written over a horizontal line.

Rose-Michel Munguia  
Assistant Attorney General  
Open Records Division

RMM/pr

Ref: ID# 135334

Encl. Submitted documents

cc: Mr. Benjamin Medina  
9600 Montrose Court  
El Paso, Texas 79925  
(w/o enclosures)